

JURISDICTION OVER CRIMINAL OFFENSES
COMMITTED BY MEMBERS OF
ARMED FORCES

Exchange of notes at Chungking May 21, 1943

Entered into force May 21, 1943

*Expired October 28, 1952*¹

57 Stat. 1248; Executive Agreement Series 360

*The American Chargé d'Affaires ad interim to the Political Vice Minister
in Charge of Ministerial Affairs*

EMBASSY OF THE
UNITED STATES OF AMERICA
Chungking, May 21, 1943

EXCELLENCY:

Confirming the understanding reached in the conversations which have taken place in Chungking between representatives of our two Governments, I have the honor to inform Your Excellency that it is the desire of the Government of the United States that the service courts and authorities of its military and naval forces shall during the continuance of the present conflict against our common enemies exercise exclusive jurisdiction over criminal offenses which may be committed in China by members of such forces.

If cases arise in which for special reasons the service authorities of the Government of the United States may prefer not to exercise the above jurisdiction, it is proposed that in any such case a written statement to that effect shall be sent to the Chinese Government through diplomatic channels, in which event it would be open to the Chinese authorities to assume jurisdiction.

Assurance is given that the service courts and authorities of the United States forces in China will be willing and able to try, and on conviction to punish, all criminal offenses which members of the United States forces may be alleged on sufficient evidence to have committed in China and that the United States authorities will be willing in principle to investigate and

¹ Six months after entry into force of treaty of peace with Japan (3 UST 3169; TIAS 2490).

deal appropriately with any alleged criminal offenses committed by such forces in China which may be brought to their attention by the competent Chinese authorities or which the United States authorities may find have taken place.

Insofar as may be compatible with military security, the service authorities of the United States will conduct the trial of any member of the United States forces for an offense against a member of the civilian population promptly in open court in China and within a reasonable distance from the place where the offense is alleged to have been committed so that witnesses may not be required to travel great distances to attend the trial.

The competent United States authorities will be prepared to cooperate with the authorities of China in setting up a satisfactory procedure for affording such mutual assistance as may be required in making investigations and collecting evidence with respect to offenses alleged to have been committed by members of the armed forces of the United States. As a general rule it would probably be desirable that preliminary action should be taken by the Chinese authorities on behalf of the United States authorities where the witnesses or other persons from whom it is desired to obtain testimony are not members of the United States forces. In prosecutions in Chinese courts of persons who are not members of the United States forces, but where members of such forces are in any way concerned, the service authorities of the United States will be glad to render such assistance as is possible in obtaining testimony of members of such forces or in making appropriate investigations.

Inasmuch as the interests of our common cause will best be served by provision that the foregoing arrangement may be placed on a reciprocal basis, the Government of the United States will be ready to make like arrangements to ensure to such Chinese forces as may be stationed in territory under United States jurisdiction a position corresponding to that of the United States forces in China.

It is proposed that the foregoing arrangement shall be in effect during the present war and for a period of six months thereafter.

If the above arrangement is acceptable to the Chinese Government, this note and the reply thereto accepting the provisions outlined shall be regarded as placing on record the understanding between our two Governments.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

GEORGE ATCHESON, Jr.

His Excellency

Dr. K. C. Wu,

*Political Vice Minister in charge of Ministerial Affairs,
Ministry of Foreign Affairs,
Chungking.*

*The Political Vice Minister in Charge of Ministerial Affairs to the American
Chargé d'Affaires ad interim*

MAY 21, 1943

MONSIEUR LE CHARGÉ D'AFFAIRES:

I have the honor to acknowledge receipt of your Note of to-day's date reading as follows:

[For text of U.S. note, see above.]

I have the honor to inform you that I am authorized to confirm, on behalf of the National Government of the Republic of China, that the understanding arrived at between our respective Governments regarding jurisdiction over criminal offenses which may be committed by members of the United States armed forces in China, with a provision for placing the said understanding on a reciprocal basis to ensure to such Chinese forces as may be stationed in territory under United States jurisdiction a position corresponding to that of the United States forces in China, is as set forth in your Note under reply.

The present Note and your Note under reply will accordingly be regarded as placing this understanding on record.

I avail myself of this opportunity to renew to you the assurances of my high consideration.

KUO-CHENG WU

Mr. GEORGE ATCHESON, Jr.,
Chargé d'Affaires a.i.,
American Embassy,
Chungking.